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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,065	02/24/2006	Leopoldo Bevilacqua	163-671	3955
47888 7590 04/01/2009 HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036				
EXAMINER				
KIM, CHRISTOPHER S				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
04/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,065

Applicant(s)

BEVILACQUA ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7,9,10,13,14 and 17-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9,10,13,14 and 17-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The reply filed February 2, 2009 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

3. Regarding the IDS filed May 23, 2008, the listed reference US 2002/0003312 A1 indicates applicant to be Spiegel, Richard V. US 2002/0003312 A1 is to Ganán-Calvo, Alfonso M.

Claim Objections

4. Applicant is advised that should claim 17 be found allowable, claim 23 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

5. Claims 1, 3, 4, 6, 7, 9, 10, 13, 14, 17-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 14 and 20 recite "expected operating pressures" in line 6. The specification fails to teach expected operating pressures.

Applicant argues that Weeth and Siegler do not disclose "vaporization nozzle" because they do not use the term "vaporization." Weeth and Siegler both disclose spray nozzles. Applicant's vaporization nozzle appears to be nothing more than a spray nozzle. In light of applicant's argument, it is uncertain how to interpret "vaporization nozzle." The term "vaporization" is defined as

1. the act of vaporizing.
2. the state of being vaporized.
3. the rapid change of water into steam, esp. in a boiler.

The term "vapor" is defined as

a visible exhalation, as fog, mist, steam, smoke, or noxious gas, diffused through or suspended in the air

It would appear that a nozzle that causes a mist would constitute a vaporization nozzle. A nozzle that sprays water, such as one disclosed by Weeth or Siegler, would constitute such a nozzle. Applicant's specification fails to teach what would constitute a "vaporization nozzle." Applicant merely alleges that a sprinkling means or a sprinkler does not constitute a vaporization nozzle. Applicant is required to provide an interpretation that should be given to the term "vaporization nozzle."

6. Claims 14, 17, 18, 20-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 14 recites the broad recitation "expected operating pressure", and the claim also recites "higher than 50 bar" which is the narrower statement of the range/limitation.

Claim 17 recites the limitation "a base" in line 5. It appears to be a double inclusion of the "base" recited in line 3.

Claim 17 recites the limitation "...and includes curved elements..." starting on line 7. It is uncertain what "includes" refers to.

Claim 18 recites the limitation "a cylindrical shaped body" in line 6. It appears to be a double inclusion of the vaporization nozzle.

Claim 18 recites the limitation "and a tongued terminal part..." It is uncertain whether it should be read as "said shaped blocking element comprises a first blocking element...and a tongued terminal part..." or "...for holding the vaporization nozzle in direct contact with a cylindrical shaped body and a tongued terminal part..."

Claim 18 appears to recite an additional element "a second blocking element" in lines 8-9. Parent claim 1 recites the transitional phrase "consisting" which is closed ended.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte*

Hasche, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 20 recites the broad recitation "expected operating pressure", and the claim also recites "higher than 50 bar" which is the narrower statement of the range/limitation.

Claim 21 recites the limitation "a base" in line 5. It appears to be a double inclusion of the "base" recited in line 3.

Claim 21 recites the limitation "...and includes curved elements..." starting on line 6. It is uncertain what "includes" refers to.

Claim 22 recites the limitation "a cylindrical shaped body" in line 6. It appears to be a double inclusion of the vaporization nozzle.

Claim 22 recites the limitation "and a tongued terminal part..." It is uncertain whether it should be read as "said shaped blocking element comprises a first blocking element...and a tongued terminal part..." or "...for holding the vaporization nozzle in direct contact with a cylindrical shaped body and a tongued terminal part..."

Claim 22 appears to recite an additional element "a second blocking element" in lines 8-9. Parent claim 19 recites the transitional phrase "consisting" which is close ended.

Claim 23 recites the limitation "a base" in line 16. It appears to be a double inclusion of the "base" recited in line 15.

Claim 23 recites the limitation "...and includes curved elements..." starting on line 18. It is uncertain what "includes" refers to.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since

the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 26 recites the broad recitation "expected operating pressure", and the claim also recites "higher than 50 bar" which is the narrower statement of the range/limitation.

Claim 27 recites the limitation "a cylindrical shaped body" in line 6. It appears to be a double inclusion of the vaporization nozzle.

Claim 27 recites the limitation "and a tongued terminal part..." It is uncertain whether it should be read as "said shaped blocking element comprises a first blocking element...and a tongued terminal part..." or "...for holding the vaporization nozzle in direct contact with a cylindrical shaped body and a tongued terminal part..."

Claim 27 appears to recite an additional element "a second blocking element" in lines 8-9. Parent claim 23 recites the transitional phrase "consisting" which is close ended.

Claim Rejections - 35 USC § 103

7. Claims 1, 3, 4, 7, 9, 10, 13, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weeth (3,587,972) in view of Siegler (4,582,257).

Weeth discloses a water vaporization distribution plant consisting of:

- at least one feeding collector 14;
- nozzle-holder ramps 16, 18, 20, 22, 24, 26;
- a series of vaporization nozzles 30;
- first tighteners 28;
- second tighteners 32;
- a shape blocking element 38.

Weeth differs from what is claimed in the nozzle-holder ramps having a square or rectangular section.

Siegler discloses, in the Background of the Invention, that rectangular cross section hoses are well known.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have made the nozzle-holder ramps of Weeth with a rectangular cross section as taught by Siegler to assist in directing the outlet opening upwards.

Regarding claim 9, Weeth differs from what is claimed in the nozzle holder ramps having threaded sections in the first ends. Weeth discloses, in column 2, lines 42-45, "Branch line 16 is mad up of a number of flexible longitudinal sections of pipe...suitably coupled together." Threads are well known. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided threaded

sections in the first ends of the nozzle holder ramps in the device of Weeth for ease in assembly.

Regarding claims 13 and 19, Weeth in view of Siegler discloses the limitation of the claimed invention with the exception of the second tighteners 32 being made of corrosion resistant steel. Corrosion resistant steel is well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have made the second tighteners 32 of Weeth in view of Siegler for increased strength.

Response to Arguments

8. Applicant's arguments filed February 2, 2009 have been fully considered but they are not persuasive.

Applicant argues that Weeth nor Siegler discloses a vaporization nozzle. See response above in the rejection under 35 U.S.C. 112, first paragraph.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3752

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK